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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/919,461

07/31/2001

James K. Weixel

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3578

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09/29/2006

VERIZON

PATENT MANAGEMENT GROUP

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ARLINGTON, VA 22201-2909

EXAMINER

LANEAU, RONALD

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/919,461

Applicant(s)

WEIXEL, JAMES K.

Examiner

Ronald Laneau

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. The response filed on 7/24/06 has been entered. Claims 1-5 and 7-32 remain pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 7-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrill (US 5,991,749) in view of Yang (US 2004/0177008 A1).

As per claims 1-5, 7, and 8, Morrill discloses a method and system configured to facilitate ordering of goods or services from a vendor by a customer, comprising: one or more base stations ("cell antenna", see column 2, lines 29-31) configured to receive an abbreviated dialing sequence that corresponds to an order from a mobile terminal used by the customer (for example, see column 6, line 63 - column 7, line 26); and a processing center ("CPU", see column 2, lines 29-31) coupled between the one or more base stations and the vendor ("payee", see column 5, lines 51-60) and configured to receive the abbreviated dialing sequence, to transmit customer information (vendor would receive customer identification information because the vendor is capable of directly billing the user, see column 7, lines 63-65) to the vendor relating to the order, and to bill a wireless account of the customer for a monetary amount of the order (see column 3, lines 20-35); customer preferences are stored in a database (see column 7, lines 43-46); posting abbreviated dialing sequence codes corresponding to the vendor on signs (see

Art Unit: 3627

column 7, lines 14-16); the location of the mobile terminal is determined (see paragraph bridging columns 6-7, wherein the facility ID number is an indication of the user's location; see also column 4, line 34); and the vendor is a restaurant and the customer is a motorist (see column 3, lines 46-47). Morrill does not explicitly disclose allowing the travel to continue while utilizing the goods or services but Yang discloses a system wherein the goods or services are selected from the group of vendors consisting of restaurants, pharmacies, grocery stores, convenience stores and gas stations which allows the goods or services to be picked up by the customer and the travel to continue while utilizing the goods or services (see abs., page 2, [0014]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the pick up facility along the buyer's commuting route as taught by Yang into the system of Morrill because it would added convenience to a buyer being able to pick up and utilize goods or services on the way to work.

Additional features disclosed by Morrill as required by claims 9-12 and 15-32, that were not addressed above include: billing a credit card or debit card of the customer for a monetary amount of the order (see column 4, lines 16-24); entering into an agreement with the vendor to provide the abbreviated dialing service to the vendor (see column 6, lines 47-62); collecting revenue from the vendor according to the agreement ("transaction fees", see column 6, lines 59-62); and acquiring a preferred manner of payment from the customer (see column 4, lines 17-38).

Regarding amendment to claims 1, 8, 17, 24, 28, and 30 on 2/11/05, Morrill discloses transmitting customer information to a vendor, wherein the location of the customer is remote from the vendor (see column 3, lines 20-21; "permits face-to-face or remote transactions").

Art Unit: 3627

As per claims 1, 8, 11, 17, 24, 28, and 30, Morrill discloses a vendor having multiple locations (see paragraph bridging columns 6-7; “Multiple facilities with different rates”) and the order is initiated and prepared when the customer is remote from the vendor location to reduce wait time of the customer (see column 6, lines 20-25; “This application of the procedure speeds through-put into and out of the facility”, underline added for emphasis by Examiner). Additionally, Morrill discloses a processing center that determines from the remote location the one of the multiple vendor locations to which to transmit customer information (see paragraph bridging columns 6-7, “It is this short-cut key sequence which tells the mobile phone service provider’s CPU that this is an entrance/exit parking fee transaction for this particular parking facility”, underline added for emphasis by Examiner).

4. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrill (US 5,991,749) in view of Yang (US 2004/0177008 A1) and further in view of Stilp (US 5,327,144).

Morrill disclose all the claimed elements as set forth above, but fails to explicitly disclose calculating the location of the mobile terminal based on signal information received at one or more base stations using time delay information and global positioning system information.

Stilp teaches the use of calculating the location of the mobile terminal based on signal information received at one or more base stations using time delay information (see paragraph bridging columns 6-7) and global positioning system information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the pick up facility along the buyer’s commuting route as taught by

Art Unit: 3627

Yang into the system of Morrill because it would added convenience to a buyer being able to pick up and utilize goods or services on the way to work. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined systems of Morrill and Yang with time delay cellular phone location determination as taught by Stilp, because determining the location of a user will allow the user to enter fewer codes but will locate the proper vendor.

### ***Response to Arguments***

5. Applicant's arguments filed 7/24/06 have been fully considered but they are not persuasive.

Applicant argues that Morrill fails to teach or disclose with respect to "the group of vendors consisting of restaurants, pharmacies, grocery stores, toll booths, convenience stores and gas stations." In response to Applicant's arguments, although Morrill' system utilizes a parking lot but nothing prevents the system of Morrill from using good or services from a group of vendors consisting of restaurants, pharmacies, grocery stores, toll booth, convenience stores and gas stations as Applicant claims. It does not matter the location of the vendor, an order placed in advance can be picked up at any location and a wireless transaction can be transmitted to a customer and be billed for the entire amount of the order. When an order is placed, someone at the store is responsible to prepare the ordered item before the customer arrives to pick up at one of the vendor locations. In regards to Yang, Applicant argues that Yang does not show that the customer takes delivery of pre-ordered goods where the order was prepared. In response to Applicant's arguments, the ultimate goal is for the customer to pick up the goods on his/her

Art Unit: 3627

commuting route and the system of Yang provides such features. Furthermore, Applicant insists on picking up the goods where the order was prepared and in this case claims call for picking up goods at “one of the vendor location.” One would have to know the location the goods are being prepared in order to go directly to this location or one would to another location and the food will not be ready because it was not prepared at this particular location. The mention of “one of a vendor locations” is confusing since the goods will be prepared in one location only. Claims 1-5 and 7-32 remain rejected.

### ***Conclusion***

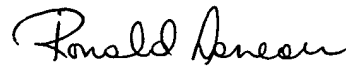
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/919,461  
Art Unit: 3627

Page 7



Ronald Laneau  
Primary Examiner  
Art Unit 3627

9/20/06

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